

NETWORK MEDICAL SERVICES

CONTRACT NO. V505P-906

VABCA-5476 & 5558VA MEDICAL CENTER
SEATTLE, WASHINGTON

Robert J. Loring, Ph.D., Chief Operating Officer, Network Medical Services, Pennsauken, New Jersey, for the Appellant.

Merilee D. Rosenberg, Esq., Trial Attorney; **Philip S. Kauffman, Esq.**, Deputy Assistant General Counsel; and **Phillipa L. Anderson, Esq.**, Assistant General Counsel, Washington, D.C., for the Department of Veterans Affairs.

ORDER OF DISMISSAL AND REDOCKETING
(Rule 12.2, Small Claims Expedited Procedure)

1. On April 14, 1998, the VA filed a Motion to Dismiss because the Appellant's appeal to this Board was received on the 60th day after receipt by the contracting officer and thus was premature.
2. During a conference call the Government confirmed that the contracting officer had not issued a final decision and Appellant reiterated his intention to appeal the contracting officer's failure to issue a final decision. Accordingly, it was agreed that VABCA-5476 would be dismissed for lack of jurisdiction and the entire record would be redocketed as VABCA-5558.
3. All documents submitted in VABCA-5476 will be transferred to the newly docketed VABCA-5558.
4. The Government agreed to make every effort to provide Appellant the quantities ordered on the prior contract as soon as possible.
5. The parties also agreed to submit this appeal without a hearing pursuant to Board Rule 11. Accordingly, the parties will be given a date by which to supplement the record as provided in Rule 13. Following supplementation of the record, simultaneous briefs will be due at which time the parties may also file rebuttal evidence. Thereafter, the parties will be given an opportunity to file reply briefs. No additional evidence will be received, however, without justification and the permission of the Board.
6. The following schedule is hereby established. Dates indicated below are the dates by which the referenced documents are to be *received* and in each instance the party mailing a document is to mail the original, or a single copy, to the Board and a copy thereof directly to the other party.

Date:**Action Required:****Tuesday, May 19, 1998**

The Appellant and Government shall

supplement the Record with documents, affidavits and other materials authorized by Rule 13.

Thursday, June 4, 1998

The Appellant and Government shall file briefs together with any Rebuttal evidence.

Thursday, July 9, 1998

Reply briefs, if any, due. Record to be closed.

7. While no particular form for a brief is prescribed by Board Rules it should, at a minimum, address both the facts of the case and the arguments in support of your position, carefully distinguishing between the two. It is also generally useful for the Board to have your statement of facts presented in chronological order.

8. In relating the facts, citation to the record should be as specific as possible. In addition to recitation of evidence which supports your position, you should also address and explain away any contrary or conflicting evidence for each fact that is genuinely in dispute. The Board reminds the parties that submission of a case without a hearing does not relieve the parties from proving the facts supporting their claims or defenses.

9. With respect to legal arguments presented in the briefs, you should concentrate on those legal theories and propositions which fit the facts of the case and should discuss those contract provisions and legal principles which support your theory of recovery or defense.

10. The Board's decision will be issued on or before *Thursday, August 13, 1998*.

It Is So Ordered

Date: **April 24, 1998**

William E. Thomas, Jr.
Administrative Judge